

# PARKER IBRAHIM & BERG LLP

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June 28, 2022

**VIA ECF**

The Honorable Robert W. Lehrburger, U.S.M.J.  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

**Re: *Therabody, Inc. v. Tzumi Electronics LLC, et al.***  
**Civil Action No. 1:21-cv-07803-PGG**

Dear Judge Lehrburger:

This firm represents Plaintiff Therabody, Inc. ("Therabody") in the above referenced patent litigation. Pursuant to the Civil Case Management Plan and Scheduling Order, So-Ordered on May 5, 2022 (the "Scheduling Order") (Dkt. # 51), Therabody and Defendant Tzumi Electronics LLC ("Tzumi") (together, the "Parties") hereby submit a joint status letter.

The following activities have taken place since the Scheduling Order was entered on May 5, 2022:

- On May 9, 2022, Therabody filed its Second Amended Complaint (Dkt. # 53).
- On June 2, 2022, the Parties served their respective Initial Disclosures.
- On June 17, 2022, Therabody served its Infringement Contentions.

**Pending Motions:** With respect to motion practice, on June 7, 2022, Tzumi served its Motion for Partial Summary Judgment of Non-Infringement, pertaining to four of the patents-in-suit, and on June 13, 2022, Tzumi served its Partial Motion to Dismiss Certain Willfulness Claims from the Second Amended Complaint, pursuant to Fed. R. Civ. P. 12(b)(6) (together, "Tzumi's Motions").

Due to an unforeseen and imminent change in lead counsel, Therabody respectfully requests that the Court grant Therabody extensions of time to oppose Tzumi's Motions. Tzumi has consented to these requests for extensions of time. The new proposed deadlines are as follows:

- (a) **Motion for Partial Summary Judgment of Non-Infringement:** Opposition due August 5, 2022, and reply due August 22, 2022; and

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(b) **Motion to Dismiss Certain Willfulness Claims from the Second Amended Complaint:**  
Opposition due August 26, 2022, and reply due September 12, 2022.

**Discovery Status:** The Parties have exchanged and responded to written discovery demands, and have served initial document productions.

**Settlement Status:** The Parties have been unable to advance settlement discussions.

We thank the Court for its assistance in this matter.

Respectfully submitted,

*/s/ Diane C. Ragosa*

Diane C. Ragosa

cc: Scott D. Stimpson (via ECF)  
Katherine M. Lieb (via ECF)  
Steven Z. Luksenberg (via ECF)